

Shawn Wesley McClung
45 Maleena Mesa St. Apt 615
Henderson NV 89074

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COUNSEL/PARTIES OF RECORD	
FEB 24 2016	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

In the United States District Court
For the State of Nevada

2:16-cv-00382-JAD-CWH

Shawn Wesley McClung,
Plaintiff

vs

Azte Inn Casino Ltd.,
Defendant

Federal Jurisdiction

For being subjected to unequal terms and conditions of employment, harassment, docking of pay, and performance expectations. Other similarly situated co-workers, not of my protected class were extended more beneficial terms and conditions. For incidences including but not limited to offensive comments about work performance, tardiness, and phone usage, and my disability.

2/24/16

Shawn W. McClung
45 Maleena Mesa St. #615
Henderson NV 89074

DISMISSAL AND NOTICE OF RIGHTS

To: Shawn W. McClung
2200 Las Vegas Blvd. South Apt. # 101
Las Vegas, NV 89104

From: Las Vegas Local Office
333 Las Vegas Blvd South
Suite-8112
Las Vegas, NV 89101

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

487-2015-01457

Jonathan Munoz,
Investigator

(702) 388-5099

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☒

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

NOV 05 2015

Enclosures(s)

Richard T. Burgamy,
Local Office Director

(Date Mailed)

cc: Gary Vause
Partner
Aztec Inn Casino Limited Partnership
1951 S. Rainbow Blvd.
Las Vegas, NV 89146

Exhibit

Shawn 'Wes' McClung - Employed at the Aztec Gold Inn casino from 6/2010 – 7/2015

Earned vacation time seized

The employee handbook says: Vacation Pay: You become eligible for (1) week paid vacation after one year's service. Vacations must be taken the year they become available and will not be carried over to the next year. If your employment should be terminated for any reason prior to your anniversary date, no vacation hours will be earned or due. Even after pointing this out to Doug, he refused.

I was terminated a month AFTER my anniversary. My vacation was approved for 2 days after I was terminated.

I've included the text conversation with this documentation.

No termination or write up documentation

On the day I was released from service, Doug had told me that my co-workers were reporting me coming back late from my breaks. I asked if he had verified it or just came to me on what others said. He got angry and said if he looked at the video and if I was late 1 min he would fire me. I encouraged him to do so. An hour and half later he called me into the office, said "4 minutes, 2 minutes, on time, 2 minutes. I have to let you go." I said ok. He asked if I had anything else to say. I said no. He said ok in dismissal and I left. No termination paperwork was presented. Also every time he wrote me up he refused to give me a copy. When I specifically asked for a copy he refused. When asked how long before write-ups were dismissed, he said they stay in the file for the entire term of employment.

Timely suspension

The last 2 times I've worked 20 or more hours of approved overtime, he's found a reason to suspend me and seize these hours back. One time was within a week of me buying a new car which he was aware of.

Unsafe work environment

The procedure at the Aztec for dealing with aggressors is strictly hands off. If a patron is getting beat, we call Metro and witness. If we are attacked, we are instructed to run from the aggressor, until we are cornered and at a disadvantage before being able to defend ourselves. We are not allowed to carry any type of self defense. No spray, tasers, baton. If you should stray from these you will be immediately terminated. Included with this documentation is a copy of the Alert ID crime report from the neighborhood in the last couple weeks. Please notice the concentration of crime around the Stratosphere and Aztec.

Docked an hour for not having paperwork they didn't give me.

Two work cards had expired in which I had to renew. Gaming and Non-gaming. I notified both Doug and Josie a month or two previous that I needed to renew, knowing Josie (Gaming Coordinator) would have to get me started with paperwork etc. I renewed my Gaming on my time before work. When I came in at my scheduled shift at 2:45pm, Josie handed me the required paperwork told me to go get fingerprinted before I could work. When I returned... they informed me I would be docked an hour for not having that renewed already.

Personal issue with acting Asst. Manager

Josie was the best friend of my girlfriend 5 years ago. She told me of the security position and I worked with her for 5 years. In the last 3 years or so she has been increasingly hostile towards me. I'm not aware of doing anything to warrant her attention. At one point Josie had all my co-workers logging every action I made, from the time I make perimeter checks to how long I covered the bar for breaks. This combined with a natural conflict of interests between security and other departments made the workplace even more toxic.

Selective in who they punish among offenders.

In the 5 years I've worked at the Aztec, I've seen the rules and regulations used as a tool to get rid of unfavorable employees. Employees are selectively punished over the same infractions that others are doing in plain sight in front of management. Someone going so far as to brag to myself and 2 others about such as walking in 10 minutes late for her shift right behind the casino owner.

When first I told Doug and Josie (only management at Aztec) that others were doing the same things that they were punishing me over, he challenged me to log occurrences so he could verify on surveillance. I did so for a couple weeks until 1/13/2015 he told me he wasn't picking on me but I was to quit logging others and just worry about myself. Even after advising him of a theft situation by an employee that I saw with my own eyes... he told me that he viewed cam and she did everything right. When asked to view the video he got upset and refused. One particular night the bartender told me he specifically told her to stay off her phone that night, so they could hang me if I got on mine.

Legit incident reports have been destroyed by management that may make trouble for them. On 3/4/2015. He told me not to mention ANY employees in incident reports.

Conflicts of Interests

One of our duties as security officer and bartender is to verify that people are spending a minimum of \$10 for a comp'd drink. The bartenders know the more beers and drinks they throw out, the more chance they have of a tip coming back. Security is always butting heads with bar staff over this policy. Many security staff have given up on this.

The casino is located at 2200 Las Vegas Blvd S. It's right next door to the Stratosphere.

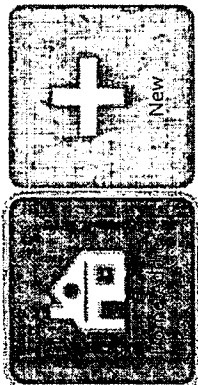
No performance evals (says we get them yearly in the employee manual) No gaming badge (same)

Labor Law Charts are in the Cashier Cage unavailable to more than half the working staff.

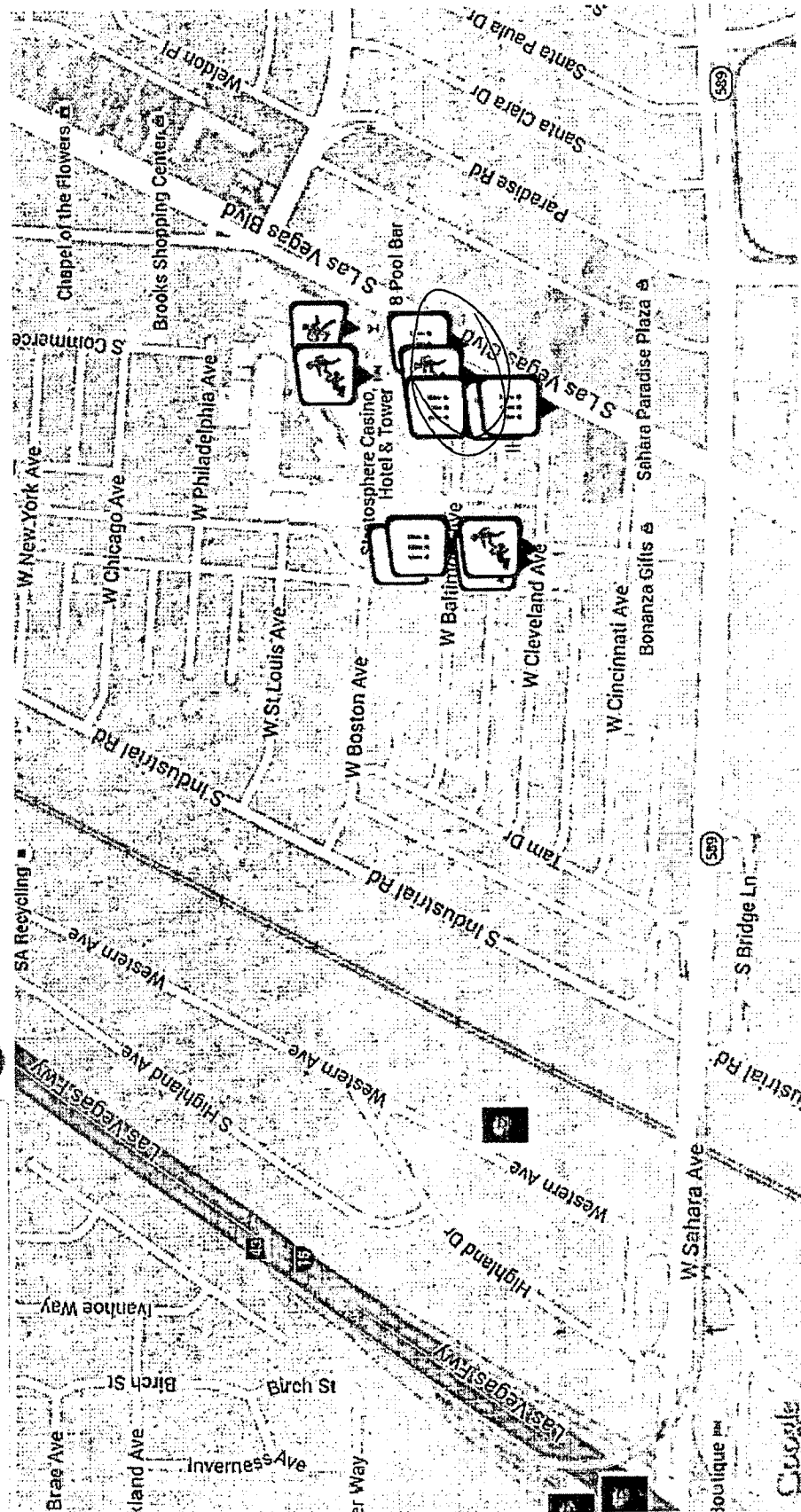
Constant overserving to patrons, contrary to law.

- Josie, on more than a couple times in front of witnesses belittled my disability and ridiculed. (Back injury)

Neighborhoods



Go to address



Separate

12:49 PM
I'll probably pick it up on the 10th when I collect my Internet check.
12:51 PM

Please being the master computer, the computer that is down, any software or hardware, all the computer's passwords and info to service it. Whatever we got when we took over the Internet cafe.
12:55 PM

Thanks
12:55 PM

You're welcome

Dennis is crying to Josie about a description of a subject in an incident.
9:10 AM

Check with the plumber he might need to get into Billy workshop.
10:55 AM

Ok
11:03 AM

Fri, 07/31/2015

I don't know if you knew it but your check has been here to pick up at any time.
10:49 PM

Ok thank you

10:50 PM
Includes the vacation pay that was approved?
10:55 PM

No
10:55 PM

I still have that coming correct?
10:56 PM

No
10:56 PM

You did not take your vacation time.
10:57 PM

It pto was approved.

Your vacation time does not roll over from year to year and if you do not use your vacation in the one year. You lose it. You did not use your vacation time when you were employed.
11:02 PM

I get 1 week after every year. I just finished my fifth year working with you, and you approved my week off.
11:03 PM

Did you not get whatever vacation time is left when you quit or get fired?
11:04 PM

When you are terminated you do not get any vacation that is not used. If you did not use it while you were employed you do not get paid for it.
11:14 AM

Sorry, that's not what the handbook says.
11:14 AM

Sorry. You will not get paid vacation time that you did not use.
11:16 AM

Wed, 08/05/2015

Did you forget about your check? Still have

11:04 PM
Voice-texting
11:05 PM

Sat, 08/01/2015

If your employment should be terminated for any reason prior to your anniversary date no vacation hours will be earned or due. I was terminated after my

It's all going for rent anyway.
11:06 AM

That's referring to your first year anniversary. You do not get paid vacation after you get terminated you have to use it while you are employed.
11:10 AM

Anniversary is yearly. Doesn't say anything about first year.
11:11 AM

That's why it directly mentions termination.
11:11 AM

Copied below is my last paycheck stub. My termination date was 7/29/15.

As you can see it does not include any vacation pay.

30376

AZTEC INN CASINO LP

Employee Shawn W McClung, 2200 Las Vegas Blvd South #358, Las Vegas, NV 89104				SSN ***-7066	Status (Fed/State) Single/(none)	Allowances/Extra Fed-100/NV-0/0
				Pay Period: 07/20/15 - 08/02/15		
				Pay Date: 07/29/15		
Earnings and Hours	Hours	Rate	Current	YTD Amount		
4-Hourly	61.50	11.00	676.50	13,738.00		
4-Overtime	61.50		0.00	2,462.63		
			676.50	16,201.63		
				Current	YTD Amount	
Taxes				0.00		
Medicare Employee Addl Tax				-47.00	-1,565.00	
Federal Withholding				-41.94	-1,004.50	
Social Security Employee				-9.81	-234.92	
Medicare Employee				-98.75	-2,804.42	
Net Pay				577.75	13,397.21	

Aztec Inn Casino Ltd. Partnership, 2200 Las Vegas Blvd. South, NV 89104